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November 15 2012

### VIA ECF

The Honorable Cathy L. Waldor, U.S.M.J.  
U.S. Post Office & Courthouse Bldg.  
Federal Square Newark, NJ 07101

**Re: Montvale Surgical Center v. Horizon Blue Cross Blue Shield of New Jersey**  
**Civil Action No. 12-3685(SRC-CLW)**

Dear Judge Waldor

Please be advised that my firm represents Horizon Blue Cross Blue Shield of New Jersey ("Horizon") in the above captioned matter. Horizon respectfully requests leave of Court to file a motion to dismiss this matter for failure to exhaust the mandatory administrative appeals under the terms of the applicable health benefit plan.

Horizon will base its motion to dismiss on the same facts and law that co-defendant District Council Ironworkers Fund of Northern New Jersey based its motion to dismiss, which was filed on or about July 3, 2012. Horizon did not file its motion at an earlier time due to efforts to consolidate this matter with a number of other matters that are pending in this Court. At this point, consolidation is unlikely and Horizon is proceeding with each matter on an individual basis. Horizon respectfully requests your Honor's permission to file a motion to dismiss as Horizon believes ample grounds exist to do so and this will most effectively protect Horizon's interests.

The Honorable Cathy L. Waldor, U.S.M.J.  
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Thank you for your consideration of this request.

Respectfully,

**CONNELL FOLEY LLP**



Matthew A. Baker

MAB/meb

cc: Andrew Bronsnick, Esq. (via ECF)  
Regina Hertzog, Esq. (via ECF)